

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of DAVID LEON HULL, JR., Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DAVID LEON HULL,

Respondent-Appellant,

and

ALICE MARIE OKAFOR,

Respondent.

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UNPUBLISHED

July 22, 2003

No. 246186

Genesee Circuit Court

Family Division

LC No. 88-077643-NA

Before: Zahra, P.J., and Talbot and Owens, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(g). We affirm.

This Court reviews a trial court's decision to terminate parental rights for clear error. MCR 5.974(I);<sup>1</sup> *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence, then the trial court must terminate respondent's parental rights unless it determines that to do so is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review for clear error the trial court's decision with regard to the child's best interests. *Id.*

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<sup>1</sup> Now MCR 3.977(J). Effective May 1, 2003, the court rules governing proceedings regarding juveniles were amended and moved to the new MCR subchapter 3.900. The provisions on termination of parental rights are now found in MCR 3.977. In this opinion, we refer to the rules in effect at the time of the lower court's decision.

On the record here presented for our review, we find that the trial court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent-appellant was incarcerated for the majority of his adult life for committing serious criminal offenses. Notwithstanding, he was paroled in August 1996 and remained on paroled status until March 1999. After the birth of David, Jr., the child's mother departed, and respondent-appellant experienced difficulty raising his son without her assistance. He acknowledged that he willingly violated his parole by removing his tether for purposes of locating David, Jr.'s mother and admitted that he "took a chance," hoping that the circumstances under which he violated his parole would be considered and that he would not return to prison. Interestingly, respondent-appellant testified that he did not enlist the help of his sisters or any other agency for purposes of locating the child's mother. His decision resulted in his subsequent return to prison in March 1999.

At the termination hearing, respondent-appellant testified that he did provide proper care and custody for his son while on parole. However, he also acknowledged that he knowingly and willingly violated his parole and risked returning to prison, even though at that time he was the child's sole caretaker. His earliest possible release date was March 2003. If his requests for parole were denied, his latest release date was in 2008. At the time of the termination hearing, the parole board's ultimate decision was entirely unascertainable. Indeed, respondent-appellant candidly testified that the parole board's ultimate decision could not be predicted with any degree of certainty. Considering the evidence and testimony presented on the whole record, we find that the trial court did not clearly err in finding that respondent-appellant failed to provide proper care and custody for his son and that there was no reasonable expectation that he would do so within a reasonable time considering the child's age.

Further, we find that the evidence did not demonstrate that termination of respondent-appellant's parental rights was antithetical to the best interests of the child. MCL 712A.19b(5); *Trejo, supra* at 356-357. Certainly, after nine different placements since the initial adjudication, the time for the child to exist in a stable and secure environment is long past due. Consequently, the trial court did not err in terminating respondent-appellant's parental rights.

Affirmed.

/s/ Brian K. Zahra  
/s/ Michael J. Talbot  
/s/ Donald S. Owens